

AMENDED IN SENATE MAY 7, 2015
AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 433

Introduced by Senator Berryhill

February 25, 2015

An act to amend Sections 7360 and 60050 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 433, as amended, Berryhill. Motor vehicle fuel taxes: diesel fuel taxes: rates: adjustments.

Existing law, as of July 1, 2010, exempts the sale of, and the storage, use, or other consumption of, motor vehicle fuel from specified sales and use taxes and increases the excise tax on motor vehicle fuel, as provided.

Existing law requires the State Board of Equalization, for the 2011–12 fiscal year and each fiscal year thereafter, on or before March 1 of the fiscal year immediately preceding the applicable fiscal year, to adjust the motor vehicle fuel tax rate in that manner as to generate an amount of revenue equal to the amount of revenue loss attributable to the sales and use tax exemption on motor vehicle fuel, based on estimates made by the board. Existing law also requires, in order to maintain revenue neutrality, the board to take into account actual net revenue gain or loss for the fiscal year ending prior to the rate adjustment date. Existing law requires this determined rate to be effective during the state's next fiscal year.

This bill would, for the 2016–17 fiscal year ~~and each fiscal year thereafter~~ *to the 2020–21 fiscal year, inclusive, on or before May 15 of the fiscal year immediately preceding the applicable fiscal year*, instead

require the Department of Finance to adjust the motor vehicle fuel tax rate as described above, and would require the department to notify the board of the rate adjustment effective for the state's next fiscal year, as provided.

Existing law, as of July 1, 2011, increases the taxes on the sale of, and the storage, use, or other consumption of, diesel fuel, and reduces the excise tax on diesel fuel.

Existing law requires the board, for the 2012–13 fiscal year and each fiscal year thereafter, on or before March 1 of the fiscal year immediately preceding the applicable fiscal year, to adjust the diesel fuel tax rate by reducing it in that manner as to result in a revenue loss that will equal the amount of revenue gain attributable to the increase in the sales and use tax rate, based on estimates made by the board. Existing law also requires, in order to maintain revenue neutrality, the board to take into account actual net revenue gain or loss for the fiscal year ending prior to the rate adjustment date. Existing law requires this determined rate to be effective during the state's next fiscal year.

This bill would, for the 2016–17 fiscal year ~~and each fiscal year thereafter~~ *to the 2020–21 fiscal year, inclusive, on or before May 15 of the fiscal year immediately preceding the applicable fiscal year*, instead require the Department of Finance to adjust the diesel fuel excise tax rate as described above, and would require the department to notify the board of the rate adjustment effective for the state's next fiscal year, as provided.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 7360 of the Revenue and Taxation Code
- 2 is amended to read:
- 3 7360. (a) (1) A tax of eighteen cents (\$0.18) is hereby imposed
- 4 upon each gallon of fuel subject to the tax in Sections 7362, 7363,
- 5 and 7364.
- 6 (2) If the federal fuel tax is reduced below the rate of nine cents
- 7 (\$0.09) per gallon and federal financial allocations to this state for
- 8 highway and exclusive public mass transit guideway purposes are
- 9 reduced or eliminated correspondingly, the tax rate imposed by
- 10 paragraph (1), on and after the date of the reduction, shall be
- 11 recalculated by an amount so that the combined state rate under

1 paragraph (1) and the federal tax rate per gallon equal twenty-seven
2 cents (\$0.27).

3 (3) If any person or entity is exempt or partially exempt from
4 the federal fuel tax at the time of a reduction, the person or entity
5 shall continue to be so exempt under this section.

6 (b) (1) On and after July 1, 2010, in addition to the tax imposed
7 by subdivision (a), a tax is hereby imposed upon each gallon of
8 motor vehicle fuel, other than aviation gasoline, subject to the tax
9 in Sections 7362, 7363, and 7364 in an amount equal to seventeen
10 and three-tenths cents (\$0.173) per gallon.

11 (2) (A) For the 2011–12 fiscal year to the 2015–16 fiscal year,
12 inclusive, *and for the 2021–22 fiscal year and each fiscal year*
13 *thereafter*, the board shall, on or before March 1 of the fiscal year
14 immediately preceding the applicable fiscal year, adjust the rate
15 in paragraph (1) in that manner as to generate an amount of revenue
16 that will equal the amount of revenue loss attributable to the
17 exemption provided by Section 6357.7, based on estimates made
18 by the board, and that rate shall be effective during the state’s next
19 fiscal year.

20 (B) For the 2016–17 fiscal year ~~and each fiscal year thereafter~~
21 *to the 2020–21 fiscal year, inclusive*, the Department of Finance
22 shall, on or before ~~March 1~~ *May 15* of the fiscal year immediately
23 preceding the applicable fiscal year, adjust the rate in paragraph
24 (1) in that manner as to generate an amount of revenue that will
25 equal the amount of revenue loss attributable to the exemption
26 provided by Section 6357.7, based on estimates made by the
27 Department of Finance, and that rate shall be effective during the
28 state’s next fiscal year.

29 (3) In order to maintain revenue neutrality for each year,
30 beginning with the rate adjustment on or before March 1, 2012,
31 the adjustment under paragraph (2) shall also take into account the
32 extent to which the actual amount of revenues derived pursuant to
33 this subdivision and, as applicable, Section 7361.1, the revenue
34 loss attributable to the exemption provided by Section 6357.7
35 resulted in a net revenue gain or loss for the fiscal year ending
36 prior to the rate adjustment date on or before March 1 *or May 15*,
37 *as applicable*.

38 (4) The intent of paragraphs (2) and (3) is to ensure that Chapter
39 6 of the Statutes of 2011, which added this subdivision and Section
40 6357.7, does not produce a net revenue gain in state taxes.

1 (5) No later than ~~March 10~~ *May 15*, 2016, and each ~~March 10~~
2 *May 15* thereafter *to May 15, 2020*, the Department of Finance
3 shall notify the board of the rate adjustment effective for the state's
4 next fiscal year.

5 SEC. 2. Section 60050 of the Revenue and Taxation Code is
6 amended to read:

7 60050. (a) (1) A tax of eighteen cents (\$0.18) is hereby
8 imposed upon each gallon of diesel fuel subject to the tax in
9 Sections 60051, 60052, and 60058.

10 (2) If the federal fuel tax is reduced below the rate of fifteen
11 cents (\$0.15) per gallon and federal financial allocations to this
12 state for highway and exclusive public mass transit guideway
13 purposes are reduced or eliminated correspondingly, the tax rate
14 imposed by paragraph (1), including any reduction or adjustment
15 pursuant to subdivision (b), on and after the date of the reduction,
16 shall be increased by an amount so that the combined state rate
17 under paragraph (1) and the federal tax rate per gallon equal what
18 it would have been in the absence of the federal reduction.

19 (3) If any person or entity is exempt or partially exempt from
20 the federal fuel tax at the time of a reduction, the person or entity
21 shall continue to be exempt under this section.

22 (b) (1) On July 1, 2011, the tax rate specified in paragraph (1)
23 of subdivision (a) shall be reduced to thirteen cents (\$0.13) and
24 every July 1 thereafter shall be adjusted pursuant to paragraphs
25 (2) and (3).

26 (2) (A) For the 2012–13 fiscal year to the 2015–16 fiscal year,
27 inclusive, *and for the 2021–22 fiscal year and each fiscal year*
28 *thereafter*, the board shall, on or before March 1 of the fiscal year
29 immediately preceding the applicable fiscal year, adjust the rate
30 reduction in paragraph (1) in that manner as to result in a revenue
31 loss attributable to paragraph (1) that will equal the amount of
32 revenue gain attributable to Sections 6051.8 and 6201.8, based on
33 estimates made by the board, and that rate shall be effective during
34 the state's next fiscal year.

35 (B) For the 2016–17 fiscal year ~~and each fiscal year thereafter~~
36 *to the 2020–21 fiscal year, inclusive*, the Department of Finance
37 shall, on or before ~~March 1~~ *May 15* of the fiscal year immediately
38 preceding the applicable fiscal year, adjust the rate reduction in
39 paragraph (1) in that manner as to result in a revenue loss
40 attributable to paragraph (1) that will equal the amount of revenue

1 gain attributable to Sections 6051.8 and 6201.8, based on estimates
2 made by the Department of Finance, and that rate shall be effective
3 during the state's next fiscal year.

4 (3) In order to maintain revenue neutrality for each year,
5 beginning with the rate adjustment on or before March 1, 2013,
6 the adjustment under paragraph (2) shall take into account the
7 extent to which the actual amount of revenues derived pursuant to
8 Sections 6051.8 and 6201.8 and the revenue loss attributable to
9 this subdivision resulted in a net revenue gain or loss for the fiscal
10 year ending prior to the rate adjustment date on or before March
11 1 *or May 15, as applicable.*

12 (4) The intent of paragraphs (2) and (3) is to ensure that Chapter
13 6 of the Statutes of 2011, which added this subdivision and Sections
14 6051.8 and 6201.8, does not produce a net revenue gain in state
15 taxes.

16 (5) No later than ~~March 10~~ *May 15*, 2016, and each ~~March 10~~
17 *May 15* thereafter *to May 15, 2020*, the Department of Finance
18 shall notify the board of the rate adjustment effective for the state's
19 next fiscal year